

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

THOMAS CICHON

SUMMONS

Plaintiff,

Index No.: _____

vs.

THE DIOCESE OF BUFFALO, N.Y. A/K/A
DIOCESE OF BUFFALO

Defendant.

TO THE ABOVE-NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED AND REQUIRED to serve upon the Plaintiff's attorneys at the address stated below, a written Verified Answer to the attached Verified Complaint.

If this Summons and Verified Complaint is served upon you within the State of New York by personal service, you must respond within twenty (20) days after service, not counting the day of service. If this Summons and Verified Complaint is not personally delivered to you within the State of New York, you must respond within thirty (30) days after service is completed, as provided by law.

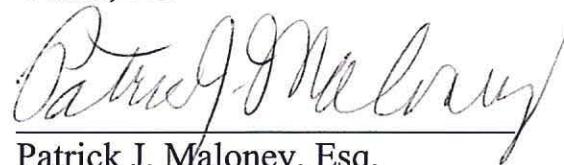
If you do not respond to the attached Verified Complaint within the applicable time limitation stated above, a Judgment will be entered against you, by

default, for the relief demanded in the Verified Complaint, without further notice to you.

This action is brought in the County of Erie because of Plaintiff's residence and the situs of the actions alleged in the Complaint.

DATED: Orchard Park, New York
October 2, 2019

Yours, etc.



Patrick J. Maloney, Esq.
Of Counsel
Meyers Buth Law Group PLLC
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STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

THOMAS CICHON

VERIFIED COMPLAINT

Plaintiff,

JURY TRIAL DEMANDED

vs.

Index No.:_____

THE DIOCESE OF BUFFALO, N.Y. A/K/A
DIOCESE OF BUFFALO

Defendant.

Plaintiff, THOMAS CICHON, by and through his attorneys, MEYERS BUTH LAW GROUP PLLC, Patrick J. Maloney, Esq. Of Counsel as and for his Verified Complaint against defendant, THE DIOCESE OF BUFFALO, N.Y. A/K/A DIOCESE OF BUFFALO herein alleges as follows:

PARTIES

1. At all times hereinafter relevant, Plaintiff, THOMAS CICHON, was and is a resident of the County of Erie and State of New York.
2. Upon information and belief, presently and at all times herein mentioned

Defendant THE DIOCESE OF BUFFALO, N.Y. A/K/A DIOCESE OF BUFFALO, was and is an organization authorized and existing by virtue of the Religious Corporation Law of the State of New York with offices for the transaction of business located in the City of Buffalo, County of Erie and State of New York, with its principal place of business at 795 Main Street, Buffalo, NY 14203.

3. Upon information and belief, and at all times hereinafter mentioned, and at the time of the incidents alleged in this complaint, Defendant, THE DIOCESE OF BUFFALO, N.Y. A/K/A DIOCESE OF BUFFALO, owned Saint John the Evangelist Roman Catholic Church, located at 2315 Seneca Street, Buffalo, NY 14210.

4. At all relevant times THE DIOCESE OF BUFFALO, N.Y. A/K/A DIOCESE OF BUFFALO, created, oversaw, managed, controlled, directed and operated parishes and schools including Saint John the Evangelist parish and school.

5. At all relevant times THE DIOCESE OF BUFFALO, N.Y. A/K/A DIOCESE OF BUFFALO, had programs that sought out the participation of children including, but not limited to, schools and other educational programs. The Diocese, through its officials, had complete control over those activities and programs involving children. The Diocese had the power to appoint, train,

supervise, monitor, remove and terminate each and every person working with children within the Diocese.

6. At all relevant times Saint John the Evangelist Roman Catholic Church, and any school affiliated with it, was under the direct authority, control, and province of Defendant Diocese of Buffalo and the Bishop of the Diocese of Buffalo.

7. At all relevant times and upon information and belief the Defendant the Diocese of Buffalo, through its agents, servants and/or employees assumed the responsibility to provide schooling, education and a safe and protective environment for the school attendees, attending schools associated with its various parishes.

8. At all relevant times THE DIOCESE OF BUFFALO, N.Y. A/K/A. DIOCESE OF BUFFALO, managed, supervised, employed, directed and/or controlled all priests assigned to work in parishes or churches of the Diocese of Buffalo, including Reverend William F. J. White (hereinafter Reverend White).

9. At all times relevant, and upon information and belief, Reverend White was a Roman Catholic Priest and an officer, agent, representative, servant and/or employee of the Defendant THE DIOCESE OF BUFFALO, N.Y. A/K/A. DIOCESE OF BUFFALO.

10. At all times relevant, and upon information and belief, at the time the

acts complained of in the complaint occurred, Reverend White was acting within the scope of his agency, servitude and/or employment with the Defendant THE DIOCESE OF BUFFALO, N.Y. A/K/A. DIOCESE OF BUFFALO.

11. At all times relevant, and upon information and belief, at the time the acts complained of in the complaint occurred, Reverend White was under the direction, supervision, and/or control of the Defendant THE DIOCESE OF BUFFALO, N.Y. A/K/A. DIOCESE OF BUFFALO.

JURISDICTION

12. This court has jurisdiction pursuant to CPLR 301 as Defendant's principal place of business is in New York and because the events giving rise to this action occurred in New York.

13. Venue is proper pursuant to CPLR 503 as Plaintiff's residence is in Erie County. Additionally, Defendant's principal place of business is in Erie County.

FACTS

14. Plaintiff and his family were parishioners of and attended Saint John the Evangelist Roman Catholic church and school in Buffalo NY when he was a child.

15. Plaintiff was enrolled as a student at Saint John the Evangelist Catholic School for second grade, third grade, fourth grade and fifth grade.

16. Upon information and belief, at all times relevant to the allegations set

forth herein, Defendant, THE DIOCESE OF BUFFALO, N.Y. A/K/A. DIOCESE OF BUFFALO, contracted with lay parents of children to attend Saint John the Evangelist School in exchange for monetary compensation.

17. At all times relevant to the allegations set forth herein, Defendant THE DIOCESE OF BUFFALO, N.Y. A/K/A. DIOCESE OF BUFFALO was responsible for overseeing, managing, controlling, directing and operating Saint John the Evangelist Roman Catholic Church and School.

18. At all times relevant to the allegations set forth herein, Reverend White, was a Roman Catholic priest employed by the Diocese of Buffalo and remained under the direct supervision, employ and control of the Defendant.

19. Defendant placed Reverend White in positions where he had access to and worked with children as an integral part of his work.

20. Defendant held their leaders and agents out as people of high morals, as possessing immense power, teaching families and children to obey these leaders and agents, teaching families and children to respect and revere these leaders and agents, soliciting youth and families to their programs, marketing to youth and families, recruiting youth and families, and holding out the people that worked in the programs as safe.

21. Plaintiff was raised in a Catholic family and attended Saint John the

Evangelist Roman Catholic Church and School. Plaintiff and Plaintiff's family came into contact with Reverend White as an agent and representative of Defendants THE DIOCESE OF BUFFALO, N.Y. A/K/A. DIOCESE OF BUFFALO.

22. At all times relevant to the allegations set forth herein, Reverend White was a priest assigned by Defendant Diocese of Buffalo to Saint John the Evangelist Church.

23. Through his position at Saint John the Evangelist Church, Reverend White was put in direct contact with Plaintiff, a minor parishioner of the Diocese of Buffalo.

24. Through his position at Saint John the Evangelist Church, Reverend White was in a position of complete dominance and control of infant Plaintiff, a minor and vulnerable child.

25. Upon information and belief, Plaintiff was a student at Saint John the Evangelist School from approximately 1966 or 1967 to 1969, a school with and operating under the auspices of the Defendant THE DIOCESE OF BUFFALO, N.Y. A/K/A. DIOCESE OF BUFFALO.

26. From approximately 1968 to 1969 when Plaintiff was approximately 10 years old and in fourth and fifth grade Reverend White engaged in unpermitted sexual contact with the infant Plaintiff.

27. Plaintiff's relationship to Defendant and Reverend White as a vulnerable child, student and parishioner, was one in which Plaintiff was subject to the ongoing influence of Defendant and Reverend White.

28. The culture of the Catholic Church in combination with the manipulations of Reverend White, created pressure on Plaintiff not to report the abuse Plaintiff suffered.

29. Defendant knew or reasonably should have known that Reverend White was a danger to children before Reverend White sexually assaulted Plaintiff.

30. Prior to the sexual abuse of Plaintiff, Defendant learned or should have learned the Reverend White was not fit to work with children. Defendant by and through their agents, servants, and/or employees, became aware, or should have become aware of Reverend White's propensity to commit sexual abuse and of the risk to Plaintiff's safety. At the very least, Defendant knew or should have known that they did not have sufficient information about whether or not their leaders and people working at Catholic institutions within the Diocese were safe.

31. At all times material hereto, Reverend White was under the management, supervision, employ, direction and/or control of Defendant THE DIOCESE OF BUFFALO, N.Y. A/K/A. DIOCESE OF BUFFALO.

32. Defendants knew or reasonably should have known that there were risks

of child sex abuse for children participating in Catholic programs and activities within the Diocese. At the very least, Defendants knew or should have known they did not have sufficient information about whether or not there was a risk of child sex abuse for children participating in Catholic programs and activities within the Diocese.

33. Defendant knew or should have known that Defendant had numerous agents, servants or employees who had sexually molested children. Defendant knew or reasonably should have known that child molesters have a high rate of recidivism. Defendant knew or should have known that some of the leaders and people working in Catholic institutions within the Diocese were not safe and that there was a specific danger of child sex abuse for children participating in their education programs.

34. Instead, Defendant negligently deemed Reverend White was fit to be around school children in a position of authority and/or that any previous problems were fixed or cured and/or that Reverend White would not sexually assault children and/or that Reverend White would not injure children and/or that Reverend White would not abuse his position and authority.

35. Defendant owed Plaintiff a duty of reasonable care because they had

superior knowledge about the risk that Reverend White posed to Plaintiff, the risk of abuse in general in their schools and/or the risks that their facilities posed to minor children.

36. Defendant owed a duty to Plaintiff to protect Plaintiff from harm because Defendant's actions created a foreseeable risk of harm to Plaintiff. As a vulnerable child participating in the programs and activities Defendant offered to minors, Plaintiff was a foreseeable victim. As a vulnerable child who Reverend White had access to through Defendant's facilities and programs, Plaintiff was a foreseeable victim.

37. Defendant also breached their duty to Plaintiff by actively maintaining and employing Reverend White in a position of power and authority through which Reverend White had unfettered access to children, including Plaintiff, and power and control over children, including Plaintiff.

38. Defendant breached its duty to Plaintiff. Defendant failed to use ordinary care in determining whether their facilities were safe and/or determining whether they had sufficient information to represent their facilities as safe. Defendants breach of their duties include, but are not limited to: failure to protect plaintiff from an known danger, failure to have sufficient policies and procedures to prevent child sex abuse, failure to properly implement policies and procedures to prevent child sex abuse, failure to take reasonable measures to make sure that

policies and procedures to prevent child sex abuse were working, failure to adequately inform families and children of the risks of child sex abuse, failure to investigate risks of child sex abuse, failure to properly train the employees at institutions and programs in schools within defendants geographical confines, failure to train parishioners and teachers within defendants geographical confines about the risk of sexual abuse, failure to have any outside agency test their safety procedures, failure to protect the children in their programs from child sex abuse, failure to adhere to the applicable standard of care for child safety, failure to investigate the amount and type of information necessary to represent the institutions, programs, leaders and lay people as safe, failure to train their employees properly to identify signs of child sexual abuse by fellow employees, failure by relying upon mental health professionals and/or failure by relying on people who claim they could treat child molesters.

39. Defendants also breached their duty to Plaintiff by failing to warn Plaintiff and Plaintiff's family of the risk that Reverend White posed and the risks of child sexual abuse in Catholic schools and institutions. They also failed to warn them about any of the knowledge that Defendant had about child sexual abuse.

40. Defendants additionally violated a legal duty by failing to report known and/or suspected abuse by Reverend White and/or its other agents servants and/or employees to the police and law-enforcement.

41. Defendants were negligent and/or made representations to Plaintiff and Plaintiff's family during each and every year of Plaintiff's minority pertinent herein.

42. As a direct result of Defendant's negligence as described herein, plaintiff has suffered, and will continue to suffer, great pain of mind and body, severe and permanent emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, humiliation, physical, personal and psychological injuries. Plaintiff was prevented, and will continue to be prevented, from performing normal daily activities and obtaining the full enjoyment of life; and will incur expenses for psychological treatment, therapy and counseling, and on information and belief has and/or will incur a loss of income and/or loss of earning capacity.

AS AND FOR A FIRST CAUSE OF ACTION
NEGLIGENCE

43. Plaintiff incorporates all consistent paragraphs of this complaint as if fully set forth under this count.

44. Defendant owed Plaintiff a duty of reasonable care to protect the Plaintiff from injury.

45. Defendant owed Plaintiff a duty of reasonable care because Defendant had a special relationship with plaintiff.

46. Defendant also had a duty arising from its special relationship with Plaintiff, Plaintiff's parents and other parents of young, vulnerable children, to properly train and supervise its priests. The special relationship arose because of the high degree of vulnerability of the children entrusted to Defendant's care. As a result all the high degree of vulnerability and risk of sexual abuse inherent in such a special relationship, Defendant had a duty to establish measures of protection not necessary for persons who are older or better able to safeguard themselves.

47. Defendant owed Plaintiff a duty to protect Plaintiff from harm because Defendant had a special relationship with Reverend White.

48. Defendant owed Plaintiff a duty of reasonable care because Defendant solicited youth and parents for participation in its school programs; encouraged youth and parents to have the youth participate in their programs; undertook custody of minor children, including Plaintiff; promoted their facilities, schools and programs as being safe for children; held their agents, including Reverend White, out as safe to work with children; encourage parents and children to spend time with their agents and/or encouraged their agents including Reverend White to spend time with, interact with and recruit children.

49. By holding Reverend White out as safe to work with children, and by undertaking the custody, supervision of, and/or care of the minor Plaintiff, Defendant entered into a fiduciary relationship with the minor Plaintiff. As a result

of Plaintiff being a minor, and by Defendant's undertaking the care and guidance of the vulnerable minor Plaintiff, defendant held a position of empowerment over plaintiff.

50. Further, Defendant, by holding itself out as being able to provide a safe environment for children, solicited and/or accepted this position of empowerment. Defendant thus entered into a fiduciary relationship with Plaintiff. Defendant exploited their position of empowerment, putting plaintiff at risk to be sexually assaulted.

51. By accepting custody of the minor Plaintiff, Defendant established an *in loco parentis* relationship with Plaintiff and so doing, owed Plaintiff a duty to protect plaintiff from injury.

52. By establishing and/or operating the Diocese of Buffalo, Saint John the Evangelist School, accepting the minor Plaintiff as a participant in their school, holding their facilities and programs out to be a safe environment for Plaintiff, accepting custody of the minor Plaintiff *in loco parentis*, and by establishing a fiduciary relationship with Plaintiff, Defendant entered into an express and/or implied duty to properly supervise Plaintiff and provide a reasonably safe environment for children who attended their schools. Defendant also owed Plaintiff a duty to properly supervise Plaintiff to prevent harm from foreseeable dangers. Defendant had the duty to exercise the same degree of care over young

parishioners under their control as a reasonably prudent person would have exercised under similar circumstances.

53. By establishing and operating the Diocese of Buffalo and Saint John the Evangelist School, which offer educational programs to children and by accepting the enrollment and participation of the minor Plaintiff as a participant in those educational programs, Defendant owed plaintiff a duty to properly supervise Plaintiff to prevent harm from reasonably foreseeable dangers.

54. Defendant owed Plaintiff a duty to protect Plaintiff from harm because Defendant invited Plaintiff onto its property and Reverend White posed a dangerous condition on defendants property.

55. Defendant breached its duties to Plaintiff by failing to use reasonable care. Defendant's failures include but are not limited to, failing to properly supervise Reverend White, failing to properly supervise plaintiff and failing to protect Plaintiff from a known danger.

56. As a direct result of the foregoing, plaintiff sustained physical, emotional, and psychological injuries, along with pain and suffering.

AS AND FOR A SECOND CAUSE OF ACTION:
NEGLIGENT TRAINING AND SUPERVISION

57. Plaintiff repeats in realleges each and every allegation set forth in paragraph 1 through 56 as if more fully set forth herein.

58. At all times herein relevant, Reverend White was employed by Defendant and was under the Defendant's direct supervision, employ, and control when he committed the wrongful acts alleged herein. Reverend White engaged in the wrongful conduct while acting in the course and scope of his employment with Defendant and/or accomplished the sexual abuse by virtue of his job-created authority.

59. Defendant had a duty arising from its employment of Reverend White to ensure that Reverend White did not sexually molest children.

60. Further, defendant head a duty to train and educate employees and administrators and establish adequate and effective policies and procedures calculated to detect, prevent, and address inappropriate behavior and conduct between clerics and children.

61. Defendant was negligent in the training, supervision, and instruction of its employees. Defendant failed to timely and properly educate, train, supervise, and or monitor its agents or employees with regard to policies and procedures that should be followed when sexual abuse of a child was suspected or observed.

62. Defendant was additionally negligent in failing to supervise, monitor, chaperone, and/or investigate Reverend White and/or in failing to create,

institute, and/or enforce rules, policies, procedures and/or regulations to prevent Reverend White's sexual abuse of plaintiff.

63. In failing to properly supervise Reverend White, and failing to establish such training procedures for employees and administrators, Defendant failed to exercise the degree of care that a reasonably prudent person would have exercised under similar circumstances.

64. As a direct result of the foregoing, Plaintiff sustained physical, emotional, and psychological injuries, along with pain and suffering.

AS AND FOR A THIRD CAUSE OF ACTION:
NEGLIGENT RETENTION

65. Plaintiff repeats in realleges each and every allegation set forth in paragraph 1 through 64 as if more fully set forth herein.

66. Defendant became aware or should have become aware of Reverend White's propensity for child sexual abuse, and failed to take any further action to remedy the problem and failed to investigate and or remove Reverend White from working with children.

67. Defendant negligently and/or recklessly retained Reverend White with Knowledge of Reverend White's propensity for the type of behavior which resulted in Plaintiffs injuries in this action.

68. Defendant negligently and/or recklessly retained Reverend White in a

position where he had access to children and could foreseeably cause harm which Plaintiff would not have been subjected to had Defendant acted reasonably.

69. In failing to timely remove Reverend White from working with children or terminate the employment of Reverend White, defendant negligently and/or recklessly failed to exercise the degree of care that a reasonably prudent person would have exercised under similar circumstances.

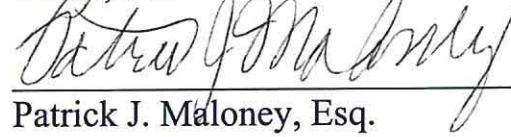
70. As a direct result of the foregoing, plaintiff sustained physical, emotional, and psychological injuries along with pain and suffering.

PRAYER FOR RELIEF

WHEREFORE, based on the foregoing causes of action, plaintiff prays for judgment against Defendant in an amount that will fully and fairly compensate Plaintiff for Plaintiff's injuries and damages, and for any other relief this court deems appropriate. The amount of damages sought in this complaint exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

DATED: Orchard Park, New York
October 2, 2019

Yours, etc.



Patrick J. Maloney, Esq.

Of Counsel

MEYERS MUTH LAW GROUP PLLC

Attorneys for Plaintiff

21 Princeton Place

Suite 105

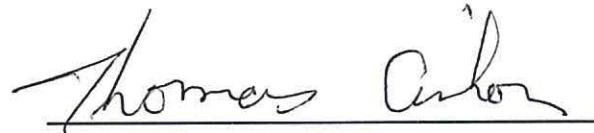
Orchard Park, New York 14127

(716) 508-8598

VERIFICATION

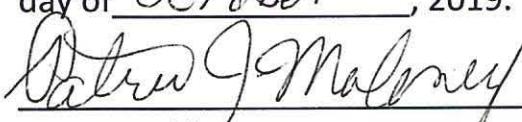
STATE OF NEW YORK)
COUNTY OF ERIE) SS.:

Thomas Cichon, being duly sworn, deposes, and says he is a PLAINTIFF in the within action, that he has read the foregoing Summons and Complaint, and knows the Contents thereof; that the same is true to his own knowledge and belief, except to those matters therein stated to be alleged upon information and belief, and that as to those matters, deponent believes it to be true.



THOMAS CICHON

Sworn to before me this 2nd
day of October, 2019.



Notary Public

PATRICK J. MALONEY
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 7/13/22